

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

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| STATE OF NEW MEXICO, <i>ex rel.</i> |) | |
| State Engineer, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | No. 69cv07941 BB-ACE |
| v. |) | Rio Chama Stream Adjudication |
| |) | |
| RAMON ARAGON et al., |) | Section 7 |
| |) | Subfile Nos.: CHCV-001-006, |
| Defendants. |) | CHCV-005-0005, CHCV-006-0006, |
| |) | CHCV-007-0007, CHCV-008-001 |

**STATUS REPORT ON SETTLEMENT DISCUSSIONS CONCERNING THE
JICARILLA APACHE NATION'S CLAIMS**

The Jicarilla Apache Nation ("Nation"), pursuant to the direction of the Special Master at the status conference held on December 14, 2004, hereby reports on the status of the Nation's review of the State of New Mexico's ("State's") proposed consent orders on the Nation's claims and the settlement discussions between the Nation and the State.

1. The Nation reported at the status conference on December 14, 2004 and in the Status Report filed December 21, 2004 [Docket No. 7683] that the Nation's legal counsel planned to meet with the Nation's Legislative Council, the governing body of the Nation, in January 2005 to obtain approval of a response to the proposed consent orders proffered by the State in subfiles CHCV-001-006, CHCV-005-0005, CHCV-006-0006, CHCV-007-0007, and CHCV-008-001. This meeting occurred in January. The Nation's legal counsel have advised counsel for the State of the Nation's position. The Nation and the State appear to be in substantial agreement on terms. Details remain to be worked out through further discussions. Counsel for the State has advised the Nation that, based on the availability of staff in the Office of the State Engineer who would be involved in

resolving these details, the State believes that these discussions can be completed by the end of this summer. Therefore, the Nation anticipates reaching final agreement with the State on these proposed consent orders by the end of this summer.

2. The Nation continues to believe that these subfiles can be resolved timely through discussions with the State. At the last status conference, the Special Master expressed a desire for the Nation to submit a proposed schedule for these subfiles for consideration at the status conference on February 10, 2005. The Special Master's January 13, 2005 Order Setting Status Conference [Docket No. 7703], however, simply states that the status and "any required scheduling and procedural orders" shall be discussed at the status conference. Because of the substantial agreement between the Nation and the State, and the anticipated completion of our discussions by the end of this summer, the Nation believes that no scheduling order is required at this time.

3. The Nation wishes to bring to the Special Master's attention the fact that the subfiles listed above do not include the Nation's water rights claims for surface water use in connection with the Willow Creek Ranch. The Order Amending Procedural Order Filed November 19, 2002 [Docket No. 7272] (filed October 20, 2003) provided that these claims shall not be included in the remaining hydrographic survey reports and instead shall be investigated separately beginning in May 2004. That Order further provided that "The State Engineer shall also make all reasonable efforts to prepare proposed consent orders either recognizing or rejecting those claims prior to July 15, 2004." The State Engineer and the Nation's Water Administrator arranged for a field inspection during the 2004 field work season, but due to a miscommunication, their staffs did not meet on the appointed day. Consequently, the field work was not completed before winter weather precluded further field work in 2004 and the State did not proffer proposed consent orders on the Willow Creek claims. Counsel

for the Nation has conferred with counsel for the State about a schedule for these claims, and has been assured by counsel for the State that it is reasonable to anticipate that the State Engineer can complete field work and proposed consent orders for these claims prior to July 15, 2005. Accordingly, the Nation respectfully submits that the Special Master may wish to entertain at the February 10, 2005 status conference an amendment to the Order Amending Procedural Order Filed November 19, 2002 to change "July 15, 2004" to "July 15, 2005" in the sentence quoted above.

Dated this 1st day of February, 2005

Respectfully submitted,

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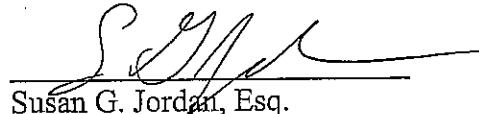


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CERTIFICATE OF SERVICE

I hereby certify that copies of the above Status Report on Settlement Discussions Concerning the Jicarilla Apache Nation's Claims were mailed by U.S. First Class mail to the following persons on February 1, 2005.



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